

Participant Guide

# Preventing Harassment



Presented By:



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# I. Introduction

## ***Training Summary***

Preventing harassment is YOUR responsibility. This seminar provides a comprehensive review of harassment issues including legal definitions, concepts, landmark rulings and prevention strategies.

*This seminar will teach participants to better recognize and prevent harassment from occurring in the workplace.*

## ***Objectives***

*Participants will learn:*

- Understand the legal definitions of Harassment
- Understand the different Harassment categories
- Apply sexual harassment law to the workplace
- Determine appropriate and inappropriate behavior patterns
- Implement sexual harassment prevention strategies
- Respond to sexual harassment if victimized
- Foster a sexual harassment-free workplace

## **II. What is Harassment?**

Harassment is:

- A form of discrimination that violates the Title VII of the Civil Rights Act of 1964; the ADA, the ADEA, or GINA
- Unwelcome verbal or physical conduct based on a person's race, color, religion, sex or gender (including pregnancy), national origin, age (40 and over), disability (mental or physical), or genetic information.
- Severe, pervasive and persistent conduct that unreasonably interferes with an employee's work performance or creates an intimidating, hostile or offensive work environment.
- An occurrence where an employee's status or benefits are directly affected by the harassing conduct of a manager or person of authority.
- Adverse employment actions (retaliation) against employees complained of harassment or discrimination or who participate in a complaint procedure.

## **III. Harassment Categories (other than Sexual Harassment):**

- Race/Color Discrimination
- Religious Discrimination
- Sex-Based Discrimination including Pregnancy
- National Origin Discrimination
- Age Discrimination
- Disability Discrimination
- Genetic Information Discrimination (GINA)

## **IV. Illegal Harassment versus Inappropriate Conduct or Behavior**

- Workplace bullying is repeated mistreatment of one or more employees using humiliation, intimidation and denigration of performance. Bullying behavior can exist at any level of an organization. Bullies can be superiors, subordinates, co-workers and colleagues.

### **Examples of workplace bullying include:**

- Social bantering or teasing.
- Verbal abuse and profanity, humiliation, constant criticism.
- Gossip.
- Stealing the credit for work performed by the victim.
- Personal and professional denigration.
- Overt threats.
- Assignment of an unrealistic workloads.
- Aggressive e-mails or notes.
- Professional exclusion or isolation.
- Sabotage of career and financial status.

## V. Quiz:

### ***How Much Do You Know About Sexual Harassment?***

- |  |   |   |
|--|---|---|
| 1. An employer will not be liable for sexual harassment committed by managers or supervisors as long as the employer is not aware of the conduct.  | T | F |
| 2. It is not unlawful harassment for a manager or supervisor to assign unfavorable work duties only to women.  | T | F |
| 3. To bring a lawsuit for sexual harassment, a victim does not need to show that he or she suffered a monetary or economic harm, such as being fired or demoted.   | T | F |
| 4. If an employee does not immediately complain about offensive behavior, the behavior is probably welcome and not harassment.   | T | F |
| 5. An employee who joins in sex jokes or sexual banter in the workplace may be a victim of sexual harassment.  | T | F |
| 6. Abusive behavior aimed at one sex that is not “sexual” in nature (e.g., a supervisor who is constantly rude to female employees and tells them that they are “dumb broads”) can be sexual harassment. | T | F |
| 7. A person who works in an office where sexual harassment occurs, but to whom harassment activity is not directed, may still sue the organization for sexual harassment.                                | T | F |
| 8. A manager’s threats to retaliate against a subordinate if he or she refuses sexual advances may constitute sexual harassment even if the threats are never carried out.                               | T | F |
| 9. A romantic relationship between a manager and his or her subordinate is sexual harassment.  | T | F |
| 10. Managers and supervisors can never be personally sued for sexual harassment.   | T | F |

- Alliance Training and Consulting, Inc. (2010)

## VI. The Basics of Sexual Harassment

### *The Facts*

- In 2011, EEOC received 11,364 sexual harassment charges. (EEOC)
- 16.3% of those charges were filed by males. (EEOC)
- Only 5 - 15% of harassed women formally report problems of harassment to employers or fair employment agencies.
- Studies suggest anywhere between 40-70% of women and 10-20% of men have experienced sexual harassment in the workplace.
- US businesses lose \$1B annually in absenteeism, low morale, replacement costs and new employee training due to sexual harassment. (US Department of Labor)

## VII. Legal Guidelines

The Federal Equal Employment Opportunities Commission (EEOC) has issued guidelines on sexual harassment under Title VII of the 1964 Civil Rights Act.

- EEOC's Public Information System can be reached at (1-800-669-4000
- To Locate Nearest EEO Field Office), and (202-663-4900; National Headquarters).

### *EEOC Definition*

The Federal Equal Employment Opportunities Commission defines Sexual Harassment as:

“Sexual harassment on the job is any unwelcome sexually-oriented behavior, demand, comment or physical contact initiated by an individual at the workplace, that is a term or condition of employment, a basis for employment decisions, or that interferes with the employee’s work or creates a hostile or offensive working environment.”

### *Federal Criteria*

29 C.F.R. Part 1604.11 Sexual harassment:

Harassment on the basis of sex is a violation of section 703 of Title VII. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- 1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
- 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
- 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work

performance or creating an intimidating, hostile, or offensive working environment.

## ***Key Sexual Harassment Cases***

- *Meritor Savings Bank vs. Vinson (1986)*
  - The Supreme Court for the first time recognizes that sexual harassment is a violation of Title VII. The concept of “hostile environment” is upheld as grounds for establishing sexual harassment.
- *Harris v. Forklift Systems Inc. (1993)*
  - If a workplace is permeated with behavior that is severe or pervasive enough to create a discriminatorily hostile or abusive working environment, Title VII is violated regardless of whether the plaintiff suffered psychological harm.
- *Faragher v. City of Boca Raton (1998)*
  - If alleged harassers are supervisors, employers can be liable for damages even if those employers are unaware of the harassment. Employers also can be liable even if there are no tangible job repercussions to the victim. In those circumstances, the employer can be liable for compensating the employee for any intangible losses, such as pain and suffering, and possibly for punitive damages as well.
- *Oncale v. Sundowner Offshore Services, Inc (1999)*
  - U.S. Supreme Court ruled that people can be sexually harassed by individuals of the same OR the opposite sex. The court made clear that employees claiming same-sex harassment have the burden of proving that the harassment was based on gender.

-EEOC



## VIII. Costs of Sexual Harassment

Lost wages/income	Promotions	Reassignment	Retaliation for reporting
Negative publicity	Absenteeism	Productivity	Short-staffing
Gossip	Decreased morale	Court costs	Retaining trained employees

- Psychological Reactions
  - Depression, anxiety, shock, denial, anger, insecurity, embarrassment, confusion, guilt
- Physiological Reactions
  - Headaches, lethargy, gastrointestinal distress, weight fluctuation, sleep disturbance, phobias, panic, dermatological reactions
- Career-Related Effects
  - Decreased job satisfaction, unfavorable performance evaluations, absenteeism, withdrawal, drop in work performance, loss of promotion or job

- *Sexual Harassment on the Job*

## IX. Forms of Harassing Behavior

Harassing behavior can take 3 forms:

- **Sexism** – the attitude of a person of one sex that he or she is better than a person of another sex
- **Sex-discrimination** – a behavior that treats a person differently because of his or her sex
- **Sexual Harassment** – unwelcome behavior of a sexual nature

**Remember: Sexual Harassment is ANY unwelcome or unwanted behavior of a sexual nature.**

### ***Three Forms of Perceived “Unwanted or Unwelcome Behavior”***

#### **PHYSICAL**

- Invading personal space
- Hugging, kissing, patting, or stroking
- Touching or rubbing oneself sexually around another person
- Touching a person’s clothing, hair or body
- Bumping into a co-worker inappropriately
- Following a person around
- Massaging a person’s neck or shoulders

#### **NON-VERBAL**

- Making sexual gestures with hands or through body movements
- Blocking a co-worker’s path
- Looking a person up and down (elevator eyes)
- Displaying sexually suggestive material (calendars, mugs, drawings, limericks, etc.)
- Giving personal gifts
- Facial expressions such as winking, throwing kisses or licking lips
- Staring at someone

#### **VERBAL**

- Persistently asking someone to go out on a date

- Referring to a co-worker as a girl, boy, hunk, babe, or honey
- Spreading rumors about a person's personal sexual life
- Whistling at someone; cat calls
- Asking personal questions about social or sexual life
- Turning work discussions into sexual topics
- Making sexual comments about a person's clothing, anatomy or looks
- Telling sexual jokes
- Boasting about sexual prowess

## **X. Preventing Sexual Harassment**

1. Are my actions clear?
2. Are my behaviors part of my conduct at work?
  - a. Asking personal questions
  - b. Making sexual comments about a person's clothing, anatomy or looks
  - c. Hugging people
  - d. Repeatedly asking a person out
  - e. Using sexual innuendos and jokes
  - f. Displaying sexually suggestive rituals
  - g. Are your actions appropriate for the work environment/necessary for your job role?
3. Do I engage in any physical, non-verbal or verbal unwanted or unwelcome behavior?
4. Is my behavior welcome?
  - a. Would I want the entire office to know this about me?
  - b. Would I behave the same way if my spouse/significant other were present?
  - c. Would I want someone else to act this way toward my spouse, father, friend, daughter, brother, mother, etc.?
  - d. Is there equal initiation and participation between me and the person I'm interacting with?

## **XI. Case Study**

### ***What Would You Do?***

Carl and Juanita are co-workers who both take public transportation to work each day. One day during the commute, Carl passed a note to Juanita. The note to Juanita read, "You have a really fresh body. How about you and I get together? Come over tonight!"

After Juanita read the note and looked up at Carl, he made some sexual gestures with his eyebrows and lips.

### ***Questions:***

1. Is this sexual harassment? Why?
2. How might Juanita have felt if Carl's behavior was unwanted?
3. Why might Carl have acted this way?

## **XII. Strategies for the Harassed**

1. Size up the situation. Educate yourself on your options and your rights.
2. Communicate to the harasser that the attention is unwanted.
  - Basic response
  - Escalating assertion
  - Confrontation
  - Letter writing
3. Keep a written record of what happened.
  - When
  - Where
  - What took place
  - How you felt
  - Any witnesses to incident
  - Names of anyone you told
4. Report the harassment to your supervisor. Ask that it be stopped and what your supervisor can do to help you in this effort.
5. Inquire about your company's harassment policies and protocols. If your supervisor is harassing you, report it to your supervisor's boss or someone else of authority that you trust.
6. File a formal complaint via company procedure.

### ***Barriers to Taking Action***

- If I ignore it, it will stop by itself.
- I engage in similar behavior, so how can I tell another person to stop?
- It is embarrassing to talk about.
- I don't like conflict.
- Dealing with the problem could make it worse.
- It could limit my career opportunities.
- It is not serious.
- I want to be liked.
- The harasser has worked here for a long time.
- The recipient asks me not to do anything.

### **XIII. Final Quiz - How Much Did I Learn About Harassment?**

- |  |   |   |
|--|---|---|
| 1. Federal law prohibits sexual harassment based on sexual orientation.  | T | F |
| 2. Anti-harassment laws clearly forbid workplace bullying.   | T | F |
| 3. Comprehensive workplace bullying legislation has not been passed by the U.S. government or any state government.  | T | F |
| 4. Actions that may be considered hostile environment harassment and violate Title VII of the Civil Rights Act of 1964 include racially derogatory words, comments about an individual's skin color and negative comments about an employee's religious beliefs. | T | F |
| 5. Due to strict privacy laws, supervisors cannot monitor employee email or be found liable for sexual harassment via email by their employees.  | T | F |
| 6. Sexual harassment in the workplace is a "women's issue."  | T | F |
| 7. Quid Pro Quo is a form of sexual harassment that includes offensive verbal, visual and/or physical contact that creates a hostile work environment.   | T | F |
| 8. Teasing and offhand comments are also considered harassment.  | T | F |
| 9. People who sexually harass others are usually motivated by attraction and desire.   | T | F |
| 10. Sexual harassment is more prevalent than workplace bullying.   | T | F |
| 11. Sexual misconduct is always a critical element in successful sexual harassment suits.  | T | F |
| 12. Most companies are protected from liability because they have airtight anti-harassment policies.   | T | F |
| 13. Employees claiming sexual harassment who are aware of but fail to take advantage of company policies or resources designed to prevent, correct or eliminate harassment have much weaker cases than those who do.   | T | F |
| 14. If a victim of sexual harassment asks a manager or supervisor not to tell anyone about the sexual harassment incident, the supervisor should not take further action.  | T | F |
| 15. Victims of workplace harassment are more severely affected than victims of sexual harassment.  | T | F |

*-www.sexualharass.com*

## **XIV. Guidelines for Behavior**

1. Understand the difference between the intent of your behavior and the impact of your behavior.
2. Ensure that there is equal initiation and participation when you interact with others.
3. Treat people, as they want to be treated, not as you think they want to be treated.

## TRAINING ACKNOWLEDGMENT

I acknowledge that I have completed **Preventing Harassment** training on the date indicated below.

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

*Please remove this page and return completed to the Human Resources department.*